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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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NISSL

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EXAMINER

DOWE, KATHERINE MARIE

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

05/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. The following is a complete response to the amendment filed 1/9/2008.
2. Claims 2, 4, and 6 are currently pending.

Response to Arguments

3. Applicant's arguments, see amendment, filed 1/9/2008, with respect to the rejection(s) of claim(s) 2, 4, and 6 under Penn et al. (US 6,217,608) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Herklotz et al. (EP 0970664 A2).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

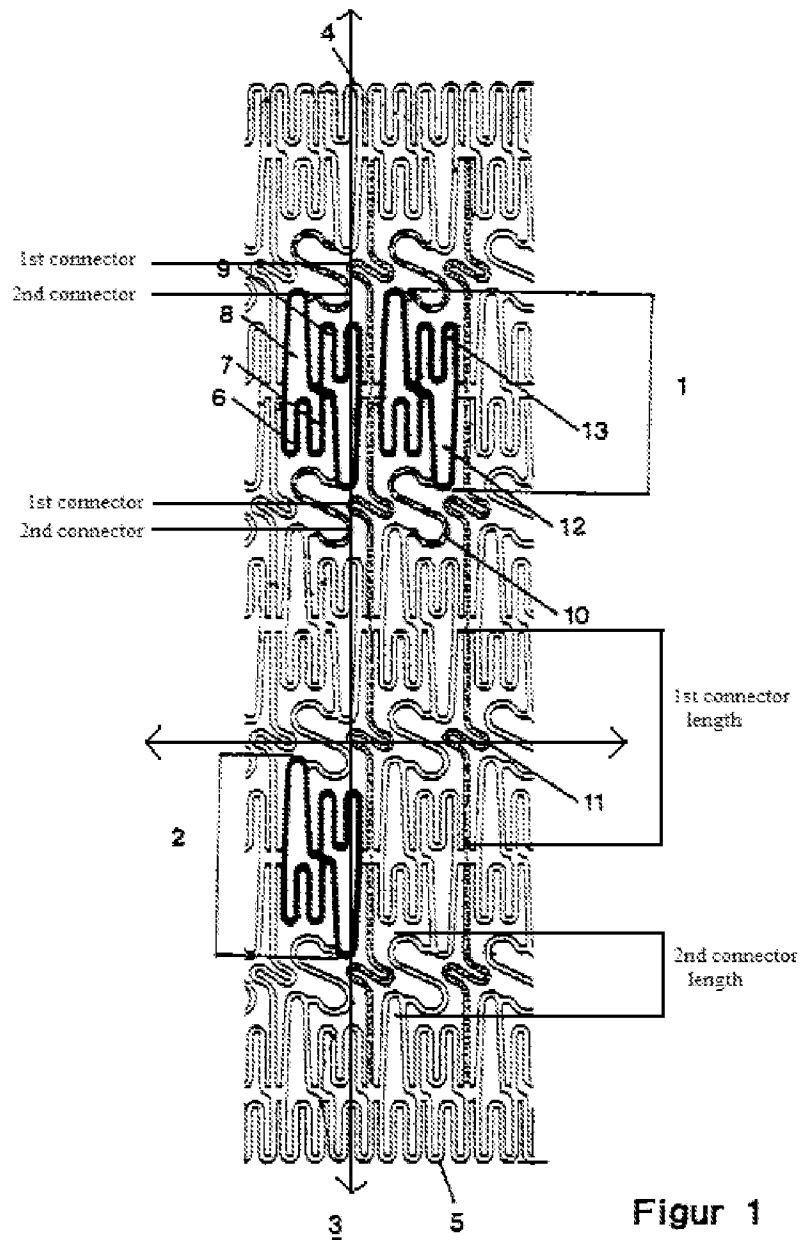
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 2, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herklotz et al. (EP 0970664 A2) in view of White et al. (US 2003/0105517). Herklotz et al. disclose a stent (Fig 1) with an expandable tubular support frame including a plurality of ring segments (1, 2) formed by struts and U-shaped arcuate sections. Adjacent ring segments are linked by first (11) and second (10) connectors that alternate in the same circumferential plane and along the longitudinal axis (see annotated Fig 1 below). Each connector has a U-shaped compensating section and arcuate legs curved in the same circumferential direction. The first connectors are longer in length than the second connectors. The ring segments define wave crests and valleys, which confront one another. Finally, connections joining the connectors confront one another. The struts are initially curved and the struts are capable of assuming a generally linear configuration in an expanded support state. However, Herklotz et al. do not specifically disclose the struts assume a generally linear configuration in the support state. White et al. disclose it is desirable to have a strut (48) curved in a compressed, or initial, state (Fig 3) and assume a generally linear configuration in an expanded, or support, state (Fig 4). White et al. teaches that such a configuration helps maintain the length of the stent between the initial and support states (§0041-0042). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Herklotz et al. such that the struts assumed a generally linear configuration in an expanded support state to keep the length of the stent constant as the stent expands, thus reducing harm to the

Art Unit: 3734

vessel that may be caused by the stent rubbing against the vessel wall if it shortens upon expansion.

Annotated Figure 1 (Herklotz et al.):



Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KATHERINE M. DOWE whose telephone number is (571)272-3201. The examiner can normally be reached on M-F 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3734

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin T. Truong/
Primary Examiner, Art Unit 3734

Katherine Dowe
May 15, 2008

/K. M. D./
Examiner, Art Unit 3734